

**32348**

**SERVICE DATE - DECEMBER 21, 2001**

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**DOCKET NO. AB-290 (Sub-No. 234X)**

**Norfolk Southern Railway Company – Abandonment Exemption – in Mingo County, WV**

### **BACKGROUND**

In this proceeding, Norfolk Southern Railway Company (NS) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Mingo County, West Virginia. The line extends 2.3 miles from Milepost TR-0.0 at Thacker, West Virginia to Milepost TR-2.3 at Colonel, West Virginia. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

### **DESCRIPTION OF THE LINE**

According to NS, there has been no rail traffic on the line for the past two years. NS states that the land use in the area surrounding the rail line is 70 percent undeveloped and 30 percent residential.

### **ENVIRONMENTAL REVIEW**

The applicant submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicant served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The U.S. Fish and Wildlife Service has submitted comments stating that no Federally listed endangered and threatened species or species of concern would be affected by the proposed abandonment.

The National Geodetic Survey has submitted comments stating that the proposed abandonment could affect one geodetic station marker.

The West Virginia Division of Environmental Protection (DEP) has also submitted comments stating that the area for the proposed abandonment is not located in a Class I or Non-Attainment area for National Ambient Air Quality Standards (NAAQS), and that NAAQS regulations would not be applicable to the proposed abandonment. However, DEP states that the regulations at 45 CSR 17 for the minimization of fugitive dusts from fugitive emission sources could be applicable to the proposed abandonment.

### **Water**

The line proposed for abandonment runs along the 100-year floodplains connected to Thacker Branch. The line parallels Thacker Branch, and intersects with the Thacker Branch at MP 2.1. NS states that it does not know whether the Thacker Branch intersection is intermittent and that “a Public Lands permit from the West Virginia Department of Natural Resources may be required to remove this section of track.” According to NS, the proposed abandonment would not alter the shape of the roadbed. NS also states that “there are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment.”

Comments from the U.S. Army Corps of Engineers (Corps) indicate that because the proposed abandonment would not cause fill material to be placed into waters, a Clean Water Act Section 404 permit would not be necessary. The Corps also states that a permit under Section 10 of the Rivers and Harbors Act of 1899 would be required before any work could be conducted in or over navigable waters.

### **Historic**

The West Virginia Division of Culture and History (SHPO) has submitted comments requesting additional information. The SHPO has also indicated that it did not receive the applicant’s historic report in a timely manner and requests additional time for review.

### **CONDITIONS**

We recommend that the following environmental conditions be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) has identified one geodetic station markers along the rail line and requests 90 days notice to plan relocation of any markers which may be disturbed or destroyed. Therefore, we recommend that the following condition be imposed on any decision granting abandonment authority: **Norfolk Southern Railway Company shall consult with NGS and provide NGS with 90 days notice prior to disturbing or destroying any geodetic station markers.**

2. The West Virginia Department of Culture and History has not yet completed its review of the proposed abandonment. Therefore, we recommend that the following condition be imposed on any decision granting abandonment authority: **Norfolk Southern Railway Company shall take no steps to alter the historic integrity of the line and all sites and structures on the line until the completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, we conclude that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this environmental assessment, you should send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Rini Ghosh, who prepared this environmental assessment. **Please refer to Docket No. AB-290 (Sub-No. 234X) in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Rini Ghosh, the environmental contact for this case by phone at (202) 565-1539, fax at (202) 565-9000, or e-mail at [ghoshr@stb.dot.gov](mailto:ghoshr@stb.dot.gov).

Recent events involving a principal postal facility within Washington, D.C., may affect for a period of time the receipt of materials mailed to the Board, as well as customer receipt of reply mail sent from the Board. Until the timely delivery of mail has been reestablished, the Section of Environmental Analysis (SEA) requests that individuals filing comments regarding this or other environmental assessments take the following additional steps to ensure receipt of their correspondence during the comment period:

1. Telephone or e-mail the environmental contact indicated above prior to the close of the comment period and inform them that you have mailed a comment.
2. If the comment has not been received, the environmental contact will discuss alternative modes of delivery.
3. Retain a copy of your comment for your records should alternative modes of delivery need be necessary.

SEA is committed to carrying out its duties to the public and regrets any inconvenience these new procedures may cause.

Date made available to the public: **December 21, 2001.**

**Comment due date: January 7, 2002.**

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment

MAP TO BE SCANNED